

ARKANSAS COURT OF APPEALS

DIVISION IV
No. CACR08-298

RANDOLPH MORRIS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered November 5, 2008

APPEAL FROM THE ASHLEY
COUNTY CIRCUIT COURT,
[NO. CR 2006-191-1]

HONORABLE SAM POPE, JUDGE

AFFIRMED

JOSEPHINE LINKER HART, Judge

Randolph Morris was found guilty in an Ashley County jury trial of possession of cocaine with intent to deliver and fleeing. He was sentenced to concurrent terms of forty years and one year, respectively, in the Arkansas Department of Correction. On appeal, he argues that the trial court erred in denying his motion to suppress. We affirm.

At the hearing on Morris's motion to suppress, Ashley County Sheriff's Deputy Timmy Brian Slaughter testified that around midnight on October 27, 2006, he was parked in a marked patrol car in the parking lot of the Old Milo Store where he could observe the four-way stop sign at the intersection of Highway 189, Ashley County 485, and Ashley County 95. The store had nighttime illumination. He observed a black Monte Carlo SS approach from the east on Highway 189. The vehicle slowed down, but did not stop before making a left-hand turn onto Ashley County 485. The driver, who was later determined to be Morris, also failed to use his turn signal. Deputy Slaughter pulled behind the Monte Carlo

so that he could read the license plate and find out to whom the car was registered. After following the Monte Carlo for approximately a mile, he received a response about the registration from dispatch. He then activated his blue lights. Morris sped up, attempting to elude the deputy.

Morris disputed Deputy Slaughter's testimony. He claimed that he saw Slaughter at the store and stopped at the intersection. He admitted that he attempted to elude the deputy because he had purchased twelve to fifteen thirty packs of beer in Eudora. The trial judge specifically found Deputy Slaughter's testimony more credible and denied Morris's suppression motion.

On appeal, Morris argues that the trial court erred in denying his motion to suppress, essentially because Deputy Slaughter's account of the events was not worthy of belief. He asserts that the deputy's claim that he waited to ascertain the ownership of the vehicle before activating his blue lights "makes no sense, because the tags on the car does not always tell you who the driver is." He asserts that Deputy Slaughter was seeking other information and therefore it was "obvious" that the stop was not for running the stop sign. We disagree.

In reviewing the denial of a motion to suppress evidence, we conduct a de novo review based on the totality of the circumstances, reviewing findings of historical facts for clear error and determining whether those facts give rise to reasonable suspicion or probable cause, giving due weight to inferences drawn by the trial court. *Simmons v. State*, 83 Ark. App. 87, 118 S.W.3d 136 (2003). In our review, we defer to the superior position of the trial judge to pass upon the credibility of witnesses. *Davis v. State*, 351 Ark. 406, 94 S.W.3d 892

(2003).

Here, this case turns on which version of the events the trial judge chooses to believe—Deputy Slaughter unequivocally testified that Morris committed two traffic violations,¹ and Morris vehemently denied it. It is axiomatic that a traffic offense committed in the presence of a police officer gives the officer probable cause to stop the alleged offender's vehicle. *See, e.g., Sims v. State*, 356 Ark. 507, 157 S.W.3d 530 (2004). Because the trial court made a specific finding that Deputy Slaughter's account of the incident was more credible than Morris's, the case rests on the deference that we afford the trier of fact in making credibility determinations. Accordingly, we hold that the trial court did not err in finding that Deputy Slaughter had probable cause to make the stop, and therefore, we affirm.

Affirmed.

PITTMAN, C.J., and GRIFFEN, J., agree.

¹ Arkansas Code Annotated section 27-51-601(d) (Repl. 1994) proscribes failing to stop at a stop sign, and Arkansas Code Annotated section 27-51-403(d) (Supp. 2007) proscribes turning onto a highway without displaying an appropriate signal.